

REFERENCE TITLE: **adequate water supply; notice**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2462

Introduced by
Representatives O'Halleran, Hershberger, Jones, Kirkpatrick: Chase, McLain

AN ACT

**AMENDING SECTIONS 9-463.01, 11-806.01, 33-422 AND 45-108, ARIZONA REVISED
STATUTES; RELATING TO WATER.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-463.01, Arizona Revised Statutes, is amended to
3 read:

4 9-463.01. Authority

5 A. Pursuant to ~~the provisions of~~ this article, the legislative body of
6 every municipality shall regulate the subdivision of all lands within its
7 corporate limits.

8 B. The legislative body of a municipality shall exercise the authority
9 granted in subsection A of this section by ordinance prescribing:

10 1. Procedures to be followed in the preparation, submission, review
11 and approval or rejection of all final plats.

12 2. Standards governing the design of subdivision plats.

13 3. Minimum requirements and standards for the installation of
14 subdivision streets, sewer and water utilities and improvements as a
15 condition of final plat approval.

16 C. By ordinance, the legislative body of any municipality shall:

17 1. Require the preparation, submission and approval of a preliminary
18 plat as a condition precedent to submission of a final plat.

19 2. Establish the procedures to be followed in the preparation,
20 submission, review and approval of preliminary plats.

21 3. Make requirements as to the form and content of preliminary plats.

22 4. EITHER determine that certain lands may ~~either~~ not be subdivided,
23 by reason of adverse topography, periodic inundation, adverse soils,
24 subsidence of the earth's surface, high water table, lack of water or other
25 natural or man-made hazard to life or property, or control the lot size,
26 establish special grading and drainage requirements, and impose other
27 regulations deemed reasonable and necessary for the public health, safety or
28 general welfare on any lands to be subdivided affected by such
29 characteristics.

30 5. Require payment of a proper and reasonable fee by the subdivider
31 based ~~upon~~ ON the number of lots or parcels on the surface of the land to
32 defray municipal costs of plat review and site inspection.

33 6. Require the dedication of public streets, sewer and water utility
34 easements or rights-of-way, within the proposed subdivision.

35 7. Require the preparation and submission of acceptable engineering
36 plans and specifications for the installation of required street, sewer,
37 electric and water utilities, drainage, flood control, adequacy of water and
38 improvements as a condition precedent to recordation of an approved final
39 plat.

40 8. Require the posting of performance bonds, assurances or such other
41 security as may be appropriate and necessary to assure the installation of
42 required street, sewer, electric and water utilities, drainage, flood control
43 and improvements meeting established minimum standards of design and
44 construction.

1 D. The legislative body of any municipality may require by ordinance
2 that land areas within a subdivision be reserved for parks, recreational
3 facilities, school sites and fire stations subject to the following
4 conditions:

5 1. The requirement may only be made ~~upon~~ ON preliminary plats filed at
6 least thirty days after the adoption of a general or specific plan affecting
7 the land area to be reserved.

8 2. The required reservations are in accordance with definite
9 principles and standards adopted by the legislative body.

10 3. The land area reserved shall be of such a size and shape as to
11 permit the remainder of the land area of the subdivision within which the
12 reservation is located to develop in an orderly and efficient manner.

13 4. The land area reserved shall be in such multiples of streets and
14 parcels as to permit an efficient division of the reserved area in the event
15 that it is not acquired within the prescribed period.

16 E. The public agency for whose benefit an area has been reserved shall
17 have a period of one year after recording the final subdivision plat to enter
18 into an agreement to acquire such reserved land area. The purchase price
19 shall be the fair market value of the reserved land area at the time of the
20 filing of the preliminary subdivision plat plus the taxes against such
21 reserved area from the date of the reservation and any other costs incurred
22 by the subdivider in the maintenance of such reserved area, including the
23 interest cost incurred on any loan covering such reserved area.

24 F. If the public agency for whose benefit an area has been reserved
25 does not exercise the reservation agreement set forth in subsection E of this
26 section within such one year period or such extended period as may be
27 mutually agreed ~~upon~~ ON by such public agency and the subdivider, the
28 reservation of such area shall terminate.

29 G. The legislative body of every municipality shall comply with ~~all~~
30 ~~provisions of~~ this article and applicable state statutes pertaining to the
31 hearing, approval or rejection, ~~and~~ and recordation of:

32 1. Final subdivision plats.

33 2. Plats filed for the purpose of reverting to acreage of land
34 previously subdivided.

35 3. Plats filed for the purpose of vacating streets or easements
36 previously dedicated to the public.

37 4. Plats filed for the purpose of vacating or redescribing lot or
38 parcel boundaries previously recorded.

39 H. Approval of every preliminary and final plat by a legislative body
40 is conditioned ~~upon~~ ON compliance by the subdivider with:

41 1. Rules as may be established by the department of transportation
42 relating to provisions for the safety of entrance upon and departure from
43 abutting state primary highways.

1 2. Rules as may be established by a county flood control district
2 relating to the construction or prevention of construction of streets in land
3 established as being subject to periodic inundation.

4 3. Rules as may be established by the department of health services or
5 a county health department relating to the provision of domestic water supply
6 and sanitary sewage disposal.

7 I. If the subdivision is comprised of subdivided lands, ~~as defined in~~
8 section 32-2101, ~~and is within a groundwater active management area,~~ as
9 defined in section 45-402, the final plat shall not be approved unless it is
10 accompanied by a certificate of assured water supply issued by the director
11 of water resources, or unless the subdivider has obtained a written
12 commitment of water service for the subdivision from a city, town or private
13 water company designated as having an assured water supply by the director of
14 water resources pursuant to section 45-576 or is exempt from the requirement
15 pursuant to section 45-576. The legislative body of the municipality shall
16 note on the face of the final plat that a certificate of assured water supply
17 has been submitted with the plat or that the subdivider has obtained a
18 written commitment of water service for the proposed subdivision from a city,
19 town or private water company designated as having an assured water supply, ~~pursuant to section 45-576 or is exempt from the requirement pursuant to~~
20 section 45-576.

21
22 J. IF THE SUBDIVISION IS OUTSIDE OF AN ACTIVE MANAGEMENT AREA AS
23 DEFINED IN SECTION 45-402, THE FINAL PLAT SHALL NOT BE APPROVED UNLESS IT IS
24 ACCOMPANIED BY THE FINAL REPORT ON THE ADEQUACY OF THE WATER SUPPLY FOR THE
25 SUBDIVISION, INCLUDING THE BRIEF STATEMENT OF THE BASIS FOR THE DETERMINATION
26 THAT IS ISSUED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108.
27 THE LEGISLATIVE BODY SHALL INCLUDE THE DIRECTOR'S DETERMINATION OF ADEQUACY
28 OR INADEQUACY IN ANY PUBLIC NOTICE PROVIDED REGARDING THE CONSIDERATION OF
29 FINAL APPROVAL FOR THE SUBDIVISION. IF THE SUBDIVISION RECEIVES A
30 DETERMINATION OF INADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES,
31 THE LEGISLATIVE BODY MAY DENY FINAL APPROVAL FOR THE SUBDIVISION OR MAY
32 APPROVE THE SUBDIVISION WITH OR WITHOUT CONDITIONS, INCLUDING THE REUSE OF
33 WATER, EVIDENCE OF FINANCIAL ASSURANCE, THE PURCHASE OF DEVELOPMENT RIGHTS
34 AND OTHER WATER MANAGEMENT AND MITIGATION PROVISIONS AS DETERMINED BY THE
35 LEGISLATIVE BODY ON A CASE BY CASE BASIS. ON FINAL APPROVAL OF ANY
36 SUBDIVISION PURSUANT TO THIS SUBSECTION, THE LEGISLATIVE BODY SHALL NOTIFY
37 THE DIRECTOR OF WATER RESOURCES OF THE APPROVAL AND THE NUMBER OF LOTS
38 APPROVED.

39 ~~J.~~ K. Every municipality is responsible for the recordation of all
40 final plats approved by the legislative body and shall receive from the
41 subdivider and transmit to the county recorder the recordation fee
42 established by the county recorder.

43 ~~K.~~ L. Pursuant to provisions of applicable state statutes, the
44 legislative body of any municipality may itself prepare or have prepared a
45 plat for the subdivision of land under municipal ownership.

1 ~~L.~~ M. The legislative bodies of cities and towns may REGULATE by
 2 ordinance regulate land splits within their corporate limits. Authority
 3 granted under this section refers to the determination of division lines,
 4 area and shape of the tracts or parcels and does not include authority to
 5 regulate the terms or condition of the sale or lease nor does it include the
 6 authority to regulate the sale or lease of tracts or parcels that are not the
 7 result of land splits as defined in section 9-463.

8 ~~M.~~ N. For any subdivision that consists of ten or fewer lots, tracts
 9 or parcels, each of which is of a size as prescribed by the legislative body,
 10 the legislative body of each municipality may waive the requirement to
 11 prepare, submit and receive approval of a preliminary plat as a condition
 12 precedent to submitting a final plat and may waive or reduce infrastructure
 13 standards or requirements except for improved dust-controlled access and
 14 minimum drainage improvements.

15 Sec. 2. Section 11-806.01, Arizona Revised Statutes, is amended to
 16 read:

17 11-806.01. Subdivision regulation; platting regulations;
 18 violation; classification; easement vesting

19 A. The county board of supervisors shall regulate the subdivision of
 20 all lands within its corporate limits, except subdivisions ~~which~~ THAT are
 21 regulated by municipalities.

22 B. No plat of a subdivision of land within the area of jurisdiction of
 23 such county shall be accepted for recording or recorded until it has been
 24 approved by the board. The approval of the board shall be endorsed in
 25 writing on the plat and shall also include specific identification and
 26 approval of the assurances, except those for hiking and equestrian trails
 27 required by this section. If a county planning and zoning commission exists,
 28 the plat may be referred to such commission for its consideration and the
 29 board may receive the recommendation of the commission. If the subdivision
 30 is comprised of subdivided land, ~~as defined in section 32-2101,~~ and is
 31 within a groundwater active management area, ~~as defined in section 45-402,~~
 32 the plat shall not be approved unless it is accompanied by a certificate of
 33 assured water supply issued by the director of water resources, or unless the
 34 subdivider has obtained a written commitment of water service for the
 35 subdivision from a city, town or private water company designated as having
 36 an assured water supply by the director of water resources pursuant to
 37 section 45-576 or is exempt from such requirement pursuant to section 45-576.
 38 The board shall note on the face of the plat that a certificate of assured
 39 water supply has been submitted with the plat or that the subdivider has
 40 obtained a commitment of water service for the proposed subdivision for a
 41 city, town or private water company designated as having an assured water
 42 supply, ~~pursuant to section 45-576.~~

43 C. IF THE SUBDIVISION IS OUTSIDE OF AN ACTIVE MANAGEMENT AREA AS
 44 DEFINED IN SECTION 45-402, THE FINAL PLAT SHALL NOT BE APPROVED UNLESS IT IS
 45 ACCOMPANIED BY THE FINAL REPORT ON THE ADEQUACY OF THE WATER SUPPLY FOR THE

1 SUBDIVISION, INCLUDING THE BRIEF STATEMENT OF THE BASIS FOR THE DETERMINATION
 2 THAT IS ISSUED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108.
 3 THE BOARD OF SUPERVISORS SHALL INCLUDE THE DIRECTOR'S DETERMINATION OF
 4 ADEQUACY OR INADEQUACY IN ANY PUBLIC NOTICE PROVIDED REGARDING THE
 5 CONSIDERATION OF FINAL APPROVAL FOR THE SUBDIVISION. IF THE SUBDIVISION
 6 RECEIVES A DETERMINATION OF INADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER
 7 RESOURCES, THE BOARD OF SUPERVISORS MAY DENY FINAL APPROVAL FOR THE
 8 SUBDIVISION OR MAY APPROVE THE SUBDIVISION WITH OR WITHOUT CONDITIONS,
 9 INCLUDING THE REUSE OF WATER, EVIDENCE OF FINANCIAL ASSURANCE, THE PURCHASE
 10 OF DEVELOPMENT RIGHTS AND OTHER WATER MANAGEMENT AND MITIGATION PROVISIONS AS
 11 DETERMINED BY THE BOARD OF SUPERVISORS ON A CASE BY CASE BASIS. ON FINAL
 12 APPROVAL OF ANY SUBDIVISION PURSUANT TO THIS SUBSECTION, THE BOARD OF
 13 SUPERVISORS SHALL NOTIFY THE DIRECTOR OF WATER RESOURCES OF THE APPROVAL AND
 14 THE NUMBER OF LOTS APPROVED.

15 ~~C.~~ D. Any person causing a final plat to be recorded without first
 16 submitting the plat and obtaining approval of the board is guilty of a class
 17 2 misdemeanor. No county recorder shall accept for recording or record any
 18 plat ~~which~~ THAT has not been approved as provided by this article.

19 ~~D.~~ E. The ground of refusal or approval of any plat submitted,
 20 including citation of or reference to the rule or regulation violated by the
 21 plat, shall be stated ~~upon~~ ON the record of the board.

22 ~~E.~~ F. The commission shall recommend to the board and the board shall
 23 adopt general regulations of uniform application governing plats and
 24 subdivisions of land within its area of jurisdiction. The regulations
 25 adopted shall secure and provide for the proper arrangement of streets or
 26 other highways in relation to existing or planned streets, highways or
 27 bicycle facilities or to the official map for adequate and convenient open
 28 spaces for traffic, utilities, drainage, access of fire fighting apparatus,
 29 recreation, light and air. The board may adopt general regulations to
 30 provide for the proper arrangement of hiking and equestrian trails in
 31 relation to existing or planned streets or highways, and if adopted, such
 32 hiking and equestrian trails shall conform to the official map for adequate
 33 and convenient open spaces for traffic, utilities, drainage, access of fire
 34 fighting apparatus, recreation, light and air. The general regulations may
 35 provide for modification by the commission in planned area development or
 36 specific cases where unusual topographical or other exceptional conditions
 37 may require such action. The regulations shall include provisions as to the
 38 extent to which streets and other highways shall be graded and improved and
 39 to which water, sewer or other utility mains, piping or other facilities
 40 shall be installed or provided for on the plat as a condition precedent to
 41 the approval of the final plat.

42 ~~F.~~ G. On recording of a plat, the fee of the streets, alleys,
 43 avenues, highways, easements, parks and other parcels of ground reserved to
 44 the use of the public vests in trust in the county for the uses and to the
 45 extent depicted on the plat including, but not limited to, ingress and egress

easements depicted on such plat. On annexation by any city or town such fee automatically vests in the city or town.

~~G.~~ H. Boards of supervisors of counties shall prepare specifications and make orders, inspections, examinations and certificates as may be necessary to protect and complete the provisions and make them effective. The regulations shall require the posting of performance bonds, assurances or such other security as may be appropriate and necessary to assure the installation of required street, sewer, electric and water utilities, drainage, flood control and improvements meeting established minimum standards of design and construction.

~~H.~~ I. Before adoption of regulations by the board or any amendment as provided in this article, a public hearing shall be held by the commission. A copy of the regulations shall be certified by the commission to the county board of supervisors, which shall hold a public hearing after notice of the time and place has been given by one publication fifteen days prior to the public hearing in a newspaper of general circulation in the county.

~~I.~~ J. Approval of a plat shall not be deemed to constitute or effect an acceptance by the county for designation of any street, highway, bicycle facility or other way or open space shown ~~upon~~ ON the plat into the county maintenance system, except for hiking and equestrian trails ~~which~~ THAT shall be constructed and maintained by the county. However, at such time as the streets, highways, bicycle facilities or other ways are fully completed in accordance with the approved plat and written specifications made by the county board, the county shall accept such streets, highways, bicycle facilities and other ways into the county maintenance system within one year of completion.

~~J.~~ K. For any subdivision that consists of lots, tracts or parcels, each of which is of a size as prescribed by the board of supervisors, the board may waive the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plat and may waive or reduce infrastructure standards or requirements except for improved dust-controlled access and minimum drainage improvements.

Sec. 3. Section 33-422, Arizona Revised Statutes, is amended to read:

33-422. Land divisions; recording; disclosure affidavit

A. A seller of five or fewer parcels of land, other than subdivided land, in an unincorporated area of a county and any subsequent seller of such a parcel shall furnish a written affidavit of disclosure to the buyer, at least seven days before the transfer of the property, and the buyer shall acknowledge receipt of the affidavit.

B. The affidavit must be written in twelve point type.

C. No release or waiver of a seller's liability arising out of any omission or misrepresentation contained in an affidavit of disclosure is valid or binding on the buyer.

D. The buyer has the right to rescind the sales transaction for a period of five days after the affidavit of disclosure is furnished to the buyer.

E. The seller shall record the executed affidavit of disclosure at the same time that the deed is recorded. The county recorder is not required to verify the accuracy of any statement in the affidavit of disclosure. A subsequently recorded affidavit supersedes any previous affidavit.

F. The affidavit of disclosure shall meet the requirements of section 11-480 and follow substantially the following form:

When recorded mail to:

Affidavit of Disclosure
Pursuant to A.R.S. §33-422

I, _____ (seller(s))
being duly sworn, hereby make this affidavit of disclosure
relating to the real property situated in the unincorporated
area of:

_____, County, State of Arizona, located at:

_____ and legally described as:

(Legal description attached hereto as exhibit "A")
(property).

1. There ☐ is ☐ is not....legal access to the property, as defined in A.R.S. § 11-809....☐ unknown

Explain: _____

2. There ☐ is ☐ is not....physical access to the property.
☐ unknown

Explain: _____

3. There ☐ is ☐ is not....a statement from a licensed surveyor or engineer available stating whether the property has physical access that is traversable by a two-wheel drive passenger motor vehicle.

4. The legal and physical access to the property ☐ is ☐ is not....the same....☐ unknown ☐ not applicable.

Explain: _____

- 1 *If access to the parcel is not traversable by emergency*
2 *vehicles, the county and emergency service providers may not be*
3 *held liable for any damages resulting from the inability to*
4 *traverse the access to provide needed services.*
- 5 5. The road(s) is/are ☐ publicly maintained ☐ privately
6 maintained ☐ not maintained ☐ not applicable. If applicable,
7 there ☐ is ☐ is not....a recorded road maintenance agreement.
8 *If the roads are not publicly maintained, it is the*
9 *responsibility of the property owner(s) to maintain the roads*
10 *and roads that are not improved to county standards and accepted*
11 *for maintenance are not the county's responsibility.*
- 12 6. A portion or all of the property ☐ is ☐ is not....located in a
13 FEMA designated regulatory floodplain. If the property is in a
14 floodplain, it may be subject to floodplain regulation.
- 15 7. The following services are currently provided to the property:
16 ☐ water ☐ sewer ☐ electric ☐ natural gas ☐ single
17 party telephone ☐ cable television services.
- 18 8. The property is served by ☐ a private well ☐ a shared well
19 ☐ no well. If served by a shared well, the shared well ☐ is
20 ☐ is not....a public water system, as defined by the safe
21 drinking water act (42 United States Code § 300f).
- 22 9. THE PROPERTY ☐ IS ☐ IS NOT....SERVED BY A WATER SUPPLY THAT
23 REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY BY A VEHICLE
24 OR BY RAIL.
- 25 ~~9-~~ 10. The property ☐ does have ☐ does not have an
26 on-site wastewater treatment facility (i.e., standard septic or
27 alternative system to treat and dispose of wastewater).
28 ☐ unknown. If applicable: a) The property ☐ will ☐ will not
29 require installation of an on-site wastewater treatment
30 facility; b) The on-site wastewater treatment facility ☐ has
31 ☐ has not been inspected.
- 32 ~~10-~~ 11. The property ☐ has been ☐ has not been subject to a
33 percolation test. ☐ unknown.
- 34 ~~11-~~ 12. The property ☐ does ☐ does not....meet the minimum
35 applicable county zoning requirements of the applicable zoning
36 designation.
- 37 ~~12-~~ 13. The sale of the property ☐ does ☐ does not...meet the
38 requirements of A.R.S. § 11-809 regarding land divisions. If those
39 requirements are not met, the property owner may not be able to
40 obtain a building permit. The seller or property owner shall
41 disclose each of the deficiencies to the buyer.

1 Explain: _____
 2 _____
 3 _____

4 ~~13.~~ 14. The property ☐ is ☐ is not located in the clear zone of
 5 a military airport or ancillary military facility, as defined in
 6 A.R.S. § 28-8461. (Maps are available at the state real estate
 7 department's web site.)

8 ~~14.~~ 15. The property ☐ is ☐ is not located in the high noise or
 9 accident potential zone of a military airport or ancillary military
 10 facility, as defined in A.R.S. § 28-8461. (Maps are available at
 11 the state real estate department's web site.)

12 ~~15.~~ 16. Notice: If the property is located within the territory in
 13 the vicinity of a military airport or ancillary military facility
 14 the property is required to comply with sound attenuation standards
 15 as prescribed by A.R.S. § ~~28-2482~~ 28-8482. (Maps are available at
 16 the state real estate department's web site.)

17 ~~16.~~ 17. The property ☐ is ☐ is not located under military
 18 restricted airspace. ☐ unknown. (Maps are available at the state
 19 real estate department's web site.)

20 This affidavit of disclosure supersedes any previously recorded
 21 affidavit of disclosure.

22 I certify under penalty of perjury that the information
 23 contained in this affidavit is true, complete and correct
 24 according to my best belief and knowledge.

25 Dated this ____ (date) ____ day of ____ (year) ____ by:

26 Seller's name (print): _____ Signature: _____

27 Seller's name (print): _____ Signature: _____

28 State of Arizona)

29) ss.

30 County of _____)

31 Subscribed and sworn before me this ____ (date) ____ day of
 32 ____ (year) ____, by _____.

33 _____
 34 Notary public

35 My commission expires:
 36 ____ (date) ____

37 Buyer(s) hereby acknowledges receipt of a copy of this affidavit
 38 of disclosure this ____ (date) ____ day of ____ (year) ____

39 Buyer's name (print): _____ Signature: _____

40 Buyer's name (print): _____ Signature: _____

41 G. For the purposes of this section, seller and subsequent seller do
 42 not include a trustee of a deed of trust who is selling property by a
 43 trustee's sale pursuant to title 33, chapter 6.1 or any officer who is
 44 selling property by execution sale pursuant to title 12, chapter 9 and title
 45 33, chapter 6. If the seller is a trustee of a subdivision trust as defined

1 in section 6-801 the disclosure affidavit required by this section shall be
2 provided by the beneficiary of the subdivision trust.

3 Sec. 4. Section 45-108, Arizona Revised Statutes, is amended to read:

4 45-108. Evaluation of subdivision water supply: adequacy
5 determination: fee: adequacy determination program
6 fund

7 A. In areas outside of active management areas established pursuant to
8 chapter 2, article 2 of this title, the developer of a proposed subdivision
9 including dry lot subdivisions, regardless of subdivided lot size, prior to
10 recordation of the plat, shall submit plans for the water supply for the
11 subdivision and demonstrate the adequacy of the water supply to meet the
12 needs projected by the developer to the director. The director shall
13 evaluate the plans and issue a report on the plans. **THE DIRECTOR MAY PROVIDE**
14 **THE DEVELOPER WITH A PRELIMINARY RESPONSE TO THE APPLICATION AND MAY PERMIT**
15 **THE DEVELOPER TO PROVIDE ADDITIONAL INFORMATION BEFORE ISSUING A FINAL**
16 **REPORT. THE DIRECTOR SHALL ISSUE THE FINAL REPORT ON THE ADEQUACY OF THE**
17 **WATER SUPPLY BEFORE THE DEVELOPER RECEIVES FINAL SUBDIVISION APPROVAL FROM A**
18 **CITY OR TOWN COUNCIL OR FROM A COUNTY BOARD OF SUPERVISORS. THE REPORT SHALL**
19 **INCLUDE THE RESULTS OF THE DETERMINATION AND A BRIEF STATEMENT OF THE BASIS**
20 **FOR THE FINDINGS.**

21 B. The director shall evaluate the proposed source of water for the
22 subdivision to determine its ability to meet proposed uses for a period of
23 years commensurate with normal practices in other areas of the state and
24 shall forward a copy of such evaluation to the state real estate
25 commissioner, **THE DEVELOPER AND THE CITY, TOWN OR COUNTY AUTHORITY**
26 **RESPONSIBLE FOR PLATTING THE SUBDIVISION. IF THE SOURCE OF WATER FOR THE**
27 **SUBDIVISION INCLUDES WATER THAT IS TRANSPORTED BY A VEHICLE OR BY RAIL, THE**
28 **DEPARTMENT SHALL INCLUDE THAT INFORMATION IN THE DEPARTMENT'S ADEQUACY**
29 **REPORT. THE DEVELOPER SHALL RECORD AS A PART OF ANY SUBDIVISION RECORDATION**
30 **THE RESULTS OF THE DEPARTMENT'S ADEQUACY REPORT AND THE BRIEF STATEMENT OF**
31 **THE BASIS FOR THE FINDINGS IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY**
32 **IN WHICH THE SUBDIVISION IS LOCATED.**

33 C. The director may designate cities, towns and private water
34 companies as having an adequate water supply by reporting that designation to
35 the water department of the city or town or private water company and the
36 state real estate commissioner.

37 D. The director may designate a city or town that does not directly
38 supply water to customers as having an adequate water supply by reporting
39 that designation to the city or town and the state real estate commissioner
40 if all of the following apply:

41 1. The city or town has entered into a contract with the United States
42 secretary of the interior or a county water authority established pursuant to
43 chapter 13 of this title for permanent supplies of Colorado river water for
44 municipal and industrial use.

1 2. The city or town has entered into a contract with each private
2 water company that serves water within the city or town to provide Colorado
3 river water to those private water companies.

4 3. The Colorado river water for which the city or town has contracted
5 is sufficient together with other water supplies available to the private
6 water companies that serve water within that city or town to provide an
7 adequate supply of water for the city or town.

8 4. The director finds that new subdivisions within the city or town
9 will be served primarily with Colorado river water by one of the private
10 water companies that serve water within that city or town.

11 E. The director shall not require a developer to submit plans for the
12 water supply pursuant to subsection A ~~of this section~~ if either:

13 1. Both of the following apply:

14 (a) The developer has obtained a written commitment of water service
15 from cities, towns or private water companies that have been designated as
16 having an adequate water supply.

17 (b) That city, town or private water company has been designated as
18 having an adequate water supply pursuant to subsection C ~~of this section~~.

19 2. All of the following apply:

20 (a) The city or town has been designated as having an adequate water
21 supply pursuant to subsection D ~~of this section~~.

22 (b) The developer has obtained a written commitment of water service
23 from a private water company that serves water within that city or town.

24 (c) The developer has obtained the written concurrence of the city or
25 town that has been designated.

26 F. The director may revoke a designation made pursuant to this section
27 when the director finds that the water supply may become inadequate.

28 G. The state of Arizona and the director or department shall not be
29 liable for any report, designation or evaluation prepared in good faith
30 pursuant to this section.